

*open court
con
9/28/06*

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)

v.)

Criminal No. 05-10010-NMG)

DAVID TAMAREN)

*CS
Dm
FBI*

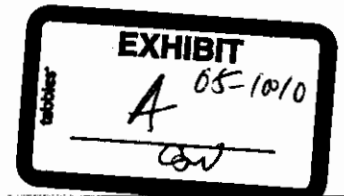
AGREED STATEMENT OF FACTS

The United States of America, by and through its undersigned counsel, and defendant David Tamaren, by and through his counsel, respectfully submit the following agreed statement of facts in connection with ^{Tamaren}~~Yelaun~~'s change of plea. Tamaren acknowledges that the following (as it pertains to him) is a true, accurate, and complete account of his conduct in connection with the crimes charged in the Indictment.

A. The Chelsea Clinic

In December 1998, Igor Moyseyev and Severin Yelaun opened a clinic in Chelsea called Broadway Physical Therapy and Rehabilitation (the "Chelsea clinic"). Over 90% of the clinic's patients were automobile accident victims who complained of various types of pain. The patients typically received treatment, medical tests, and/or durable medical goods, and their automobile insurers were billed for the cost.

Igor Moyseyev owned the clinic and worked there nearly every day; he had ultimate authority and responsibility for billing, collection, spending, and personnel matters. Yelaun managed the clinic and worked there most days; he recruited doctors to work



at the clinic, scheduled their time, and supervised the clerical workers, including the workers responsible for billing and collections. Dr. John Montoni, a chiropractor, worked at the Chelsea Clinic several days each week; he evaluated and treated patients and prescribed treatment, tests, and durable medical goods.

B. EMG tests

One of the diagnostic medical tests performed at the Chelsea clinic was a nerve function study called an electromyogram ("EMG"). An EMG machine looks like a portable computer with wires coming out of it. At the ends of the wires are long needles. A physician performs an EMG test by inserting the needles into a person's muscles until the tips of the needles touch bone. The needles detect electrical signals traveling through the muscle and produce both a visible wave form and a sound on the computer. A typical EMG test involves the testing of five or six muscles in this manner. The test can be extremely painful and is quite memorable.

The EMG machine is capable of printing a report that includes numerical data as well as images of the wave forms produced by the needles. Using a keyboard, it is also possible to enter written information on the report such as the patient's name, date of birth, and the physician's conclusions. The report is normally completed and printed out within minutes of the

test's completion so that the physician who conducted the test can review and sign it.

Unlike some diagnostic tests (such as an X-ray, ultrasound, or MRI), an EMG test cannot be performed by a technician and later read by a physician. The physician must be present when the test is done. One reason is that the test is invasive; it involves sticking long needles into the patient's body. Another reason is that the physician must view the wave forms and sounds produced by the needles in "real time" in order to determine whether the test is normal or abnormal.

C. Global Tech

When the Chelsea Clinic opened for business, Moyseyev created a separate company called Global Tech to bill for the EMG tests. At the time, automobile insurance companies would reimburse the cost of EMG tests only if they received certain supporting documents. Among those were a doctor's prescription for the test and an EMG report signed by the doctor who conducted the test. Between December 1998, when the Chelsea clinic opened, and in or about December 1999, when it began doing business at a different location, Global Tech's billing was performed by clerical workers who worked at the Chelsea clinic under Moyseyev and Yelaun's supervision. In November 1999, Moyseyev and Yelaun had a falling out and Yelaun ceased working at the Chelsea clinic. From in or about December 1999 until in or about May

2001, Global Tech's billing was done by Symco, a professional billing company that Moyseyev hired to process Global Tech's bills.

D. Lynn Diagnostics

Beginning in or about November 1999, Yelaun and another man created a company called Lynn Diagnostics to bill for EMG tests that were performed at certain clinics other than the Chelsea clinic. Moyseyev had nothing to do with Lynn Diagnostics. Like Global Tech in December 1999, Lynn Diagnostics hired Symco to process its bills.

E. The Fraudulent EMG billings

During the period 1999-2000, Global Tech and Lynn Diagnostics billed insurance companies for over 100 EMG tests that were never actually performed. (Moyseyev was not aware of the Lynn Diagnostics billings.) Many of those fraudulent bills resulted in payment to Global Tech or Lynn Diagnostics. All of the fraudulent test reports were either signed by Dr. John Montoni or stamped with the signature stamp of Dr. Ranendra Chatterjee. Dr. Montoni, who is cooperating with the government, would testify that he was instructed to sign these EMG reports by Yelaun. He would testify that Yelaun and Moyseyev once even came to his house with a stack of reports from EMG tests that purportedly had been done; he was asked to write after-the-fact prescriptions for these tests to make it appear as if they had

been prescribed. He complied, even though he knew that doing so was fraudulent. Dr. Montoni would testify that Yelaun and Moyseyev knew he had not actually performed the EMG tests he was told to sign and that, as a chiropractor, he was not qualified to perform them. He would also testify that he knew the only reason Moyseyev and Yelaun could have wanted him to sign the reports and after-the-fact prescriptions was so that they could bill insurance companies for the tests. (Dr. Montoni himself received no direct financial remuneration from the insurance companies from the fraudulent EMG billings.)

Dr. Ranendra Chatterjee would testify that he did not perform any of the EMG tests that were stamped with his signature stamp. He would testify that when he learned that Global Tech was submitting EMG reports to insurance companies that were stamped with his signature stamp, he called the Chelsea Clinic to complain. He would testify that Yelaun and Moyseyev came to his office and Yelaun admitted to him that his signature stamp had been used without his permission and that the practice would stop. Nevertheless, Moyseyev continued to submit claims to automobile insurance companies that included EMG reports that previously had been stamped with Chatterjee's signature, even though Moyseyev knew that those EMG reports were fraudulent.

Yevgeniya Gorovodsky was hired by Moyseyev and Yelaun to do billing at Global Tech. She would testify that she informed

Yelaun that insurance companies were declining some bills for EMG tests because the reports were not signed, and Yelaun said he would take care of it. She would testify that once, after this conversation, she went into Yelaun's office and he handed her a file containing an EMG report; the report was stamped with Dr. Chatterjee's signature stamp and the stamped signature was still wet. Gorovodsky would testify that in late 1999, Dr. Chatterjee called the Chelsea clinic and angrily complained that Moyseyev and Yelaun had obtained one of his signature stamps and was using it without his permission. She would testify that she reported this conversation to Moyseyev, who said he and Yelaun were aware of the problem and would take care of it. The government's evidence would show that shortly after this conversation took place, Global Tech ceased submitting EMG reports stamped with Chatterjee's signature, and Global Tech and Lynn Diagnostics began submitting reports signed by Dr. Montoni instead.

Ms. Gorovodsky would further testify that she observed Yelaun cut patient names and physician signatures off of EMG reports and paste them onto other reports and then photocopy the fabricated reports to conceal the cutting and pasting. She would testify that she told Yelaun that this practice was illegal and he replied that she should mind her own business.

At least fifteen patients would testify that they never received a needle EMG test, even though Global Tech or Lynn

Diagnostics billed the patient's insurance company for an EMG test and supported the claim with an EMG report with the patient's name on it (signed by Dr. Montoni or stamped with the Chatterjee stamp).

On May 22, 2001, Yelaun was interviewed by FBI agents about his business dealings with Moyseyev. He told the agents, among other things, that Moyseyev had stolen Dr. Chatterjee's signature stamp and had used it to bill insurance companies for services that were not rendered. Yelaun further stated that any document contained in the records of Chelsea Health Management that was stamped with Dr. Chatterjee's signature stamp was a fraudulent billing. Yelaun said that a frequent example of the stamp's unauthorized use was in connection with neurological testing. Yelaun said he saw Moyseyev use Dr. Chatterjee's signature stamp at least 20-25 times when he was not authorized. (These facts are included as evidence of Yelaun's knowledge of and participation in the fraudulent scheme; Moyseyev disputes them.)

Some of the fraudulent EMG tests that were billed by Lynn Diagnostics were prescribed by Dr. David Tamaren, an internist who worked at clinics run by Yelaun one or two days each week. Dr. Tamaren evaluated patients at those clinics and prescribed treatment, tests, and durable medical goods. Yevgeniya Gorovodsky, the Chelsea clinic office worker who did billing for Global Tech, would testify that at one point she told Yelaun and

Moyseyev that insurance companies would not pay for EMG tests unless the file contained a doctor's prescription for the test. When Dr. Tamaren was interviewed by the FBI about this case, he admitted that Yelaun sometimes asked him to write prescriptions for EMG tests that purportedly had already been done, and he complied, writing "EMG prescribed and done" on a prescription pad and signing it. Tamaren knew that the only reason Yelaun could want these after-the-fact prescriptions was so that he could bill insurance companies for the EMG tests and support the claims with the illegitimate after-the-fact prescriptions.

F. Money laundering

When Moyseyev created Global Tech, he also opened a bank account in Global Tech's name and hired an accountant to prepare Global Tech's tax returns. All deposits into the Global Tech account were made by Moyseyev, and all checks written on the account were signed by him. Moyseyev controlled Global Tech's books and signed its tax returns.

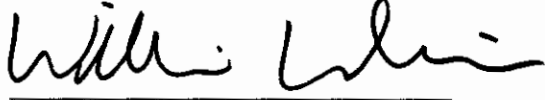
The government's evidence includes numerous checks issued to Global Tech by insurance companies as payment for fraudulent EMG tests that were billed by Global Tech but never actually performed. Moyseyev deposited these checks into Global Tech's bank account and used some of the proceeds to further the fraudulent scheme. Among other things, Moyseyev used some of the proceeds to pay Symco, the billing agency, for its services,

knowing that Symco was billing for claims based on fraudulent EMG tests.

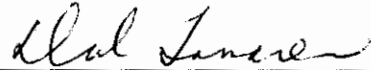
Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

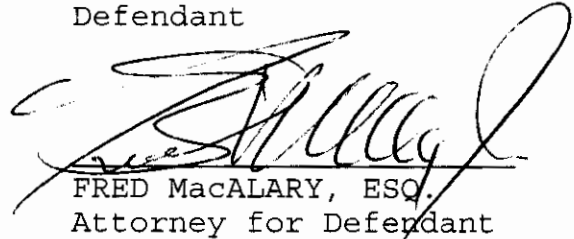
By:



WILLIAM D. WEINREB
GREGG D. SHAPIRO
JEREMY M. STERNBERG
Assistant U.S. Attorneys



DAVID TAMAREN
Defendant



FRED MacALARY, ESQ.
Attorney for Defendant